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From:

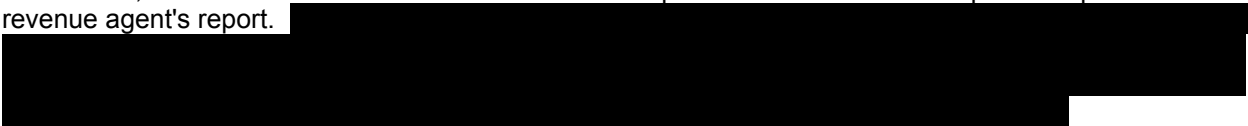
Sent: Tuesday, May 05, 2009 3:33:27 PM

To:

Cc:

Subject: Proof of claim in estate and USC 3713

Under 31 U.S.C. § 3713, liability is imposed on a representative of a debtor, including the personal representative of an estate, who pays a debt of the estate to another in derogation of the priority of debts owed to the United States, thereby rendering the estate insolvent. In order for liability to attach, the representative must have knowledge of the debt owed by the estate to the United States or notice of facts that would lead a reasonably prudent person to inquire as to the existence of the debt owed before making the challenged distribution or payment. U.S. v. Coppola, 85 F.3d 1015, 1019 (2d Cir. 1996). As we understand, you had a telephone conversation with the attorney for the personal representative of the estate informing him of the Service's substantial claims. While this conversation may in itself be sufficient to put the personal representative on notice, we concur with your suggestion of confirming the conversation by letter. We note that IRM 5.5.1.6 contemplates that notice include service of Form 4490, Proof of Claim for Internal Revenue Taxes, or Form 10492, Notice of Federal Taxes Due. Further, as we understand, the Unit will be able to complete an estimated claim upon receipt of the revenue agent's report.



If we can be of further assistance, please let me know.